

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2008-004550

09/07/2010

JUDGE DAVID J. PALMER

CLERK OF THE COURT  
L. Wistuber  
Deputy

IN RE THE MATTER OF  
SHERI NICHOLE REEVES

SHERI NICHOLE REEVES  
2150 S 55TH ST # 1111  
TEMPE AZ 85282

AND

PHILIP CHRISTOPHER REEVES

PHILIP CHRISTOPHER REEVES  
1147 W SEA FOG DR  
GILBERT AZ 85233

FAMILY COURT SERVICES-CCC

RULING

The Court convened an evidentiary hearing on July 9, 2010 on Mother's Petition to Relocate. The parties, who were divorced pursuant to a decree entered on April 2, 2009, are the parents of sons Ezra, born 7-2-06, and Dakota, born 8-21-08. They currently both live in the metro Phoenix area, Mother in an apartment, and Father in some type of communal or group home, the exact specifics of which are unclear to this Court. Mother works as a teacher's aide at a pre-school; Father is unemployed, and is attending massage therapy school.

Mother wishes to relocate to Prescott Valley, where she has acquired more advantageous employment with a pre-school, which will provide her the opportunity to enroll her children for a reduced rate; at the pre-school where she worked in the Phoenix area she would be unable to have her children with her at work due to a policy change regarding the cost of the facility to the children of employees.

Mother's father lives in Prescott Valley, near to where Mother wishes to relocate. Very  
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vague allegations regarding alleged inappropriate activities of a sexual nature between him and Mother's stepbrothers many years ago were made by Father, but no specifics were testified to by the parties. Father also expressed concern about Mother's father's alcohol use.

**THE COURT FINDS** that Mother seeks to relocate more than 100 miles with the minor children. A.R.S. §25-408(I) sets forth the factors to be considered in determining if relocation is in the best interests of the minor children. In making this finding, the Court considered the factors set forth in A.R.S. §25-408(I) and finds as to those factors:

*1. [The factors prescribed under section 25-403.]*

- *The wishes of the child's parent or parents as to custody.*

Neither party appears to be asking for a modification of the current Court order, which is joint legal custody; the only issues are the relocation and the impact it would have on Father's parenting time.

- *The wishes of the child as to the custodian.*

No evidence was presented in this regard; the children are 4 and 2 years old.

- *The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.*

Mother has a strong relationship with the children. Given Father's living situation, which is somewhat unusual, with an open door policy and a large non-nuclear family, Mother's testimony that the boys appear hesitant to want to visit there appears credible.

- *The child's adjustment to home, school and community.*

The children do appear to be well adjusted to their current home setting in the Phoenix area, which primarily consists of staying with Mother, and having visits with Father. While Mother testified to concerns about Father's home setting and the boys' reluctance to go there, the boys appear to be adjusting to that portion of their current "home" setting as well. Since "school" for them now is attending the day care or pre-school where Mother was working and in Prescott Valley would be where she will be working, the

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Court finds that adjustment to school would be good in either location.

- *The mental and physical health of all individuals involved.*

Father testified that he has suffered from some physical maladies, specifically significant back problems.

- *Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent.*

Mother.

- *Whether one parent, both parents or neither parent has provided primary care of the child.*

Mother has been the primary care giver for more of the children's lives.

- *The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.*

Not applicable.

- *Whether a parent has complied with chapter 3, article 5 of this title.*

Mother – yes; Father – no.

- *Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.*

No evidence was presented in this regard.

2. *Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the child and the other parent or the other parent's right of access to the child.*

The Court finds good faith on the part of both parents.

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*3. The prospective advantage of the move for improving the general quality of life for the custodial parent or for the child.*

Provided Mother secures adequate housing, the Court finds it will be an improvement in their quality of life, in that Mother will have new employment and the children will financially be able to attend the pre-school where she works.

*4. The likelihood that the parent with whom the child will reside after the relocation will comply with parenting time orders.*

The Court finds it very likely that Mother will comply with parenting time orders after relocation.

*5. Whether the relocation will allow a realistic opportunity for parenting time with each parent.*

The Court finds that Father's parenting time will be affected due to his lack of income and lack of transportation, but finds that Mother appears committed to Father having his parenting time.

*6. The extent to which moving or not moving will affect the emotional, physical or developmental needs of the child.*

The Court is concerned about these issues at either Mother's proposed home in Prescott or at Father's unusual living situation.

*7. The motives of the parents and the validity of the reasons given for moving or opposing the move including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations.*

The Court does not find either party's position in this matter to have anything to do with child support. Father cannot pay any less child support than he is currently paying, which is \$0 no matter where the children live.

*8. The potential effect of relocation on the child's stability.*

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The Court does have concerns about the boys' stability in either location; at Father's "home" people appear to come in and out of residence there, it is unclear to the Court who provides financial support and how Father pays for the boys there, other than some type of church donation; there is also some type of "open door policy" which concerns the Court, and there is a tremendous lack of financial stability.

The primary concern at Mother's is her father, and the extent to which he would be involved with the children. Allegations were made regarding some alleged sexual misconduct involving Mother's step-brothers many years ago, and regarding her father's drinking, neither of which Mother flatly denied. She did testify that her Father does like to drink but is not a "raging alcoholic." She also testified that the issue regarding the sexual misconduct is largely a great unknown but that she would never under any circumstance leave the children with her Father alone.

Based upon the information presented,

**IT IS ORDERED** granting Mother's request to relocate to Prescott Valley, provided she has housing separate from her Father. If she has not secured housing apart from her father's home, she may relocate on her own, but the children are not to go with her. The children are not to have overnight visits with her father under any circumstance. Further, the boys are not at anytime to be alone with her father.

**IT IS FURTHER ORDERED** that Father's parenting time with the children shall be alternate weeks from Thursday evening until Sunday evening. The parties shall exchange the children at mutually agreeable location in Black Canyon City, Arizona. In the event Father is unable to arrange for transportation to the exchange location, Mother will make every effort to transport the children to Father's home, but she is not required to.

**CHILD SUPPORT**

In making this calculation, the Court imputed to Father minimum wage income, and to Mother, \$10.00 per hour based upon a 40 hour week.

**IT IS ORDERED** that Father is to pay to Mother child support in the monthly amount of \$257.59 per month, effective September 1, 2010. All child support shall be paid through the Support Payment Clearinghouse on the 1<sup>st</sup> day of each month by wage assignment.

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Formal written Child Support Order is approved and signed by the Court September 7, 2010, and filed (entered) by the Clerk on this 7<sup>th</sup> day of September, 2010.

**LET THE RECORD REFLECT** an Order of Assignment is initiated electronically by the above-named deputy clerk.

Until the Wage Assignment becomes effective, it is the responsibility of the party obligated to pay child support to pay the support to Support Payment Clearinghouse, P. O. Box 52107, Phoenix, AZ 85072-2107. The payment should show the case number and/or ATLAS case number, the name of the party paying support, and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift, in which case no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within 10 days of the change (A.R.S. § 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

**IT IS ORDERED** that within five (5) days from the filing date of this minute entry, Father shall submit to this Court a completed Current Employer Information Sheet, a form for which is attached to this minute entry for Father's convenience.

**IT IS FURTHER ORDERED** signing this minute entry as a formal written Order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / JUDGE DAVID J. PALMER

JUDICIAL OFFICER OF THE SUPERIOR COURT

**FILED:** Exhibits Worksheet.

All parties representing themselves must keep the Court updated with address changes. A

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form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Attachments:

PHILIP CHRISTOPHER REEVES: Current Employer Information, Non IV-D Payment Instructions